



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2016-0543 FRL-9956-98-Region 9]**

**Determination of Attainment of the 2008 Ozone National Ambient Air Quality Standards;**

**Eastern San Luis Obispo, California**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing our determination that the San Luis Obispo (Eastern San Luis Obispo) ozone nonattainment area (NAA) in California has attained the 2008 ozone National Ambient Air Quality Standards (NAAQS or “standards”) by the applicable attainment date of July 20, 2016. This determination is based on complete, quality-assured and certified data for the 3-year period preceding that attainment date. Based on this determination, the Eastern San Luis Obispo NAA will not be reclassified to a higher ozone classification.

**DATES:** This rule will be effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2016-0543. All documents in the docket are listed on the <http://www.regulations.gov>

website. Although listed in the index, some information is not publicly-available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly-available only in hard copy form. Publicly-available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information. **FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, (415) 972-3848, [levin.nancy@epa.gov](mailto:levin.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

## **Table of Contents**

- I. Summary of Proposed Rule
- II. Public Comments and EPA Responses
- III. Final Action
- IV. Statutory and Executive Order Reviews

### **I. Summary of Proposed Rule**

On October 12, 2016 (81 FR 70382), the EPA proposed to determine that the Eastern San Luis Obispo ozone NAA has attained the 2008 ozone standard by the applicable attainment date of July 20, 2106, based on complete, quality-assured and certified ambient air quality monitoring data for the 2013-2015 monitoring period. San Luis Obispo County is the northern-most county within the air basin designated by California as the South Central Coast Air Basin. The NAA encompasses roughly the eastern half of San Luis Obispo County. For the precise boundaries of

the Eastern San Luis Obispo 2008 ozone NAA, see 40 CFR 81.305.

Our proposed rule provided background information on the 2008 ozone standards,<sup>1</sup> the EPA's classification of the Eastern San Luis Obispo NAA under the Clean Air Act (CAA) as "Marginal" for the 2008 ozone standard, and the EPA's prior approval of an extension of the applicable attainment date for the area from July 20, 2015 to July 20, 2016 (81 FR 26697, May 4, 2016). In our proposed rule, we described our obligation under CAA section 181(b)(2)(A) to determine whether an ozone NAA attained the ozone NAAQS by the applicable attainment date within six months of that date; how we determine whether an area's air quality meets the 2008 ozone standard; and the relevant air quality monitoring agencies in the Eastern San Luis Obispo ozone NAA, their monitoring network plans, and the relevant ozone monitoring sites. We also discussed our previous review of the networks and network plans, the annual certifications of ambient air monitoring data, and our determination of completeness for 2013-2015 data from the two ozone monitoring sites within the Eastern San Luis Obispo NAA.

Our proposed rule included a table of ozone "design values" at the two ozone monitoring sites in the Eastern San Luis Obispo NAA.<sup>2</sup> See 81 FR 70382, at 70384. As explained in our proposed rule, the 2008 ozone standard is attained in an area when the design value is less than or equal to 0.075 parts per million (ppm), as determined in accordance with 40 CFR part 50, appendix P, at each monitoring site within the area. See 40 CFR 50.15. Based on our review of the monitoring data, which showed a design value for the area of 0.073 ppm (based on data

---

<sup>1</sup> Since the primary and secondary 2008 ozone standards are the same, we hereafter refer to them herein using the singular "2008 ozone standard."

<sup>2</sup> The design value is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. For the purpose of comparison with the 2008 ozone standard, the design value for a site is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations. The design value for a given area is based on the monitoring site with the highest design value.

collected at the Red Hills site) for 2013-2015, and taking into account the extent and reliability of the applicable ozone monitoring network, we proposed to determine that the Eastern San Luis Obispo NAA has attained the 2008 ozone standard by the applicable attainment date of July 20, 2016 based on complete, certified and quality-assured data for the 2013-2015 period. Lastly, we noted that if we finalize our proposed determination, then the Marginal Eastern San Luis Obispo NAA would not be subject to reclassification to “Moderate” for the 2008 ozone standard, that a determination of attainment by the applicable attainment date would not constitute a redesignation, and that the designation status of the Eastern San Luis Obispo area would remain nonattainment for the 2008 ozone standard until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment. Please see our proposed rule for more information concerning these topics.

## **II. Public Comments and EPA Responses**

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

## **III. Final Action**

Under CAA section 181(b)(2)(A), and based on the rationale presented in our proposed rule and summarized above, the EPA is finalizing our determination that the Eastern San Luis Obispo ozone NAA has attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. The EPA is making this determination based on complete, quality-assured and certified ambient air quality monitoring data for the 2013-2015 monitoring period. As a result of this determination, the Eastern San Luis Obispo 2008 ozone NAA will not be reclassified to a higher classification for the 2008 ozone standard.

#### **IV. Statutory and Executive Order Reviews**

This action is a determination based on air quality data and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule

or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: December 8, 2016.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart F — California**

2. Section 52.282 is amended by adding paragraph (i) to read as follows:

**§ 52.282 Control strategy and regulations: Ozone**

\* \* \* \* \*

(i) *Determination of attainment.* The EPA has determined that, as of [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], the San Luis Obispo (Eastern San Luis Obispo) 2008 8-hour ozone nonattainment area in California has attained the 2008 ozone standard by the July 20, 2016 applicable attainment date, based upon complete, quality-assured and certified data for 2013-2015. Therefore, the EPA has met its obligation pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. As a result of this determination, the San Luis Obispo (Eastern San Luis Obispo) 2008 ozone nonattainment area in California will not be reclassified for failure to attain by the July 20, 2016 applicable attainment date under section 181(b)(2)(A).

[FR Doc. 2016-30476 Filed: 12/20/2016 8:45 am; Publication Date: 12/21/2016]